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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/560,804

12/15/2005

Jawad Haidar

CU-4560 BWH

7414

26530 7590 01/05/2010  
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EXAMINER

ZHU, WEIPING

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

01/05/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/560,804	<b>Applicant(s)</b> HAIDAR, JAWAD	
	<b>Examiner</b> WEIPING ZHU	<b>Art Unit</b> 1793	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 September 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26, 31, 32, 36-40, 45, 52-55 and 62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26, 31, 32, 36-40, 45, 52-55 and 62 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of Claims***

1. Claims 1-26, 31, 32, 36-40, 45, 52-55 and 62 are currently under examination, wherein no claim has been amended in applicant's amendment filed on September 16, 2009. Claims 27-30, 33-35, 46-51, 56-61 and 63 have been cancelled in the same amendment.

### ***Status of Previous Rejections***

2. The previous rejections of claims 27-30, 33-35, 46-51, 56-61 and 63 under 35 U.S.C. 103(a) as stated in the Office action dated June 25, 2009 have been withdrawn in light of applicant's amendment filed on September 16, 2009. The previous rejections of claims 1-26, 31, 32, 36-40, 45, 52-55 and 62 under 35 U.S.C. 103(a) as stated in the Office action dated June 25, 2009 are maintained as follows.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, 11-26, 31, 32, 36-40, 45, 52-55 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nie et al. (US Pub, 2004/0050208 A1) as stated in the Office action dated June 25, 2009.

4. Claims 8-10 and are rejected under 35 U.S.C. 103(a) as being unpatentable over Nie et al. ('208 A1) as applied to claim 1 above and further in view of O'Donnell et al. (US 5,397,375) as stated in the Office action dated June 25, 2009.

***Response to Arguments***

5. The applicant's arguments filed on September 16, 2009 have been fully considered but they are not persuasive.

First, the applicant argues that Nie et al. ('208 A1) does not teach reducing  $\text{TiCl}_4$  with Al as claimed in the instant claim 1. In response, the examiner notes that Nie et al. ('208 A1) clearly teaches that  $\text{TiCl}_4$  can be reduced directly by Al or Mn (paragraph [0063]).

Second, the applicant argues that Nie et al. ('208 A1) teaches against from reducing  $\text{TiCl}_4$  with Al. In response, the examiner notes that the statement of Nie et al. ('208 A1) that reducing  $\text{TiCl}_4$  solely by a metal would require separating the produced Ti product from the original reductant metal and reductant-halide (paragraph [0066]) is just a statement of truth and does not constitute a teaching away. Furthermore, it is well held that mere disclosure of alternative designs does not teach away. See *In re Fulton*, 391 F. 3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

Third, the applicant argues that Nie et al. ('208 A1) teaches that the Ti metal or alloy formed is to be isolated from the reductant materials (e.g. the Al added) (paragraph [0041]), therefore, Nie et al. ('208 A1) teaches against directly contacting these materials. In response, the examiner notes that Nie et al. ('208 A1) teaches that after the elemental material is formed, it should be separated from the reductant and

reductant-halide to prevent any possible contaminations (paragraph [0041]). It would have been obvious to one of ordinary skill in the art that this teaching of Nie et al. ('208 A1) is not against directly contacting the  $\text{TiCl}_4$  to be reduced with the reductant at all. Actually, without such contacting,  $\text{TiCl}_4$  would not be reduced to Ti metal.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Weiping Zhu whose telephone number is 571-272-6725. The examiner can normally be reached on 8:30-16:30 Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 571-272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1793

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Roy King/  
Supervisory Patent Examiner, Art  
Unit 1793

WZ

11/4/2009